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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

13 Plaintiff,

14 vs.

15 UBER TECHNOLOGIES, INC.;
16 OTTOMOTTO LLC; OTTO TRUCKING
LLC,

17 Defendants.

CASE NO. 3:17-cv-00939-WHA

**PLAINTIFF WAYMO LLC'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL DECLARATION OF
LAMBERTUS HESSELINK IN SUPPORT
OF WAYMO'S STATEMENT IN
RESPONSE TO COURT'S QUESTIONS
REGARDING TRADE SECRET NUMBER
96**

Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully requests to file under seal the Declaration of Lambertus Hesselink in Support of Waymo’s Statement in Response to Court’s Questions Regarding Trade Secret Number 96 (“Hesselink Declaration”). Specifically, Waymo requests an order granting leave to file under seal the documents as listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Hesselink Declaration	Entire Document	Waymo and Defendants

I. LEGAL STANDARD

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.* In the context of non-dispositive motions, materials may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1135, 1138 (9th Cir. 2003)).

II. THE COURT SHOULD SEAL WAYMO’S CONFIDENTIAL INFORMATION

The Court should seal the Hesselink Declaration as identified by Waymo in the table above. Waymo seeks to file this information under seal because it discloses or tends to disclose Waymo’s trade secrets, including as misappropriated by Defendants. *See* Declaration of Felipe Corredor (“Corredor Decl.”) ¶¶ 3-5. Courts have determined that trade secret information merits sealing. *Music Grp. Macao Commercial Offshore Ltd. v. Foote*, No. 14-cv-03078, 2015 WL 3993147, at *1 (N.D. Cal. June 30, 2015) (quoting *Kamakana*, 447 F.3d at 1179); *see also Brocade Commc’ns Sys., Inc. v. A10 Networks, Inc.*, No. C 10-3428, 2013 WL 211115, at *1, *3 (N.D. Cal. Jan. 17, 2013) (granting request to seal document that “consists entirely of descriptions of Brocade’s trade secrets”). Confidential business information that, if released, may “harm a litigant’s competitive standing” also merits sealing. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598-99 (1978). Waymo seeks to

1 seal trade secrets that fit squarely within these categories. Corredor Decl. ¶¶ 3-5. Waymo maintains
 2 this information as a trade secret (*see* Dkt. 25-31) and ensures the information remains secret with
 3 strict secrecy and security protocols (*see* Dkt. 25-47; Dkt. 25-49.). *See* Corredor Decl. ¶ 4. Waymo
 4 has narrowly tailored its requests to only information meriting sealing. *Id.* ¶ 5. In fact, both *Music*
 5 *Group* and *Brocade* found the confidential information at issue in those cases met the heightened
 6 “compelling reasons” standard for sealing. *Music Grp.*, 2015 WL 3993147, at *1; *Brocade*, 2013 WL
 7 211115, at *1, *3. The information that Waymo seeks to seal, therefore, also meets this heightened
 8 standard. The disclosure of Waymo’s trade secret information would harm Waymo. Corredor Decl.
 9 ¶ 4. Moreover, the scope of information that Waymo is seeking to seal is consistent with other
 10 administrative motions to seal that have already been granted by the Court in this case. (*See, e.g.*, Dkt.
 11 416, 414, 406, 393, 392.) Thus, the Court should grant Waymo’s administrative motion to seal.

12 **III. DEFENDANTS’ CONFIDENTIAL INFORMATION**

13 Waymo additionally seeks to seal the Hesselink Declaration as identified in the table above,
 14 because Waymo believes it also contains information considered confidential or non-public by
 15 Defendants or by certain third parties. Corredor Decl. ¶ 6. Waymo expects Defendants to file
 16 declarations in accordance with the Local Rules.

17 **IV. CONCLUSION**

18 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the
 19 above listed documents accompany this Administrative Motion. For the foregoing reasons,
 20 Waymo respectfully requests that the Court grant Waymo’s administrative motion to file under
 21 seal.

23 DATED: September 5, 2017

QUINN EMANUEL URQUHART & SULLIVAN,
 LLP

25 By /s/ Charles Verhoeven

Charles Verhoeven
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